

ANDOVER BOARD OF HEALTH
Minutes
January 9, 2012, 6:00 P.M.
First Floor Conference Room
36 Bartlet Street

The Board of Health Meeting was called to order at 6:00 p.m. Present were Ms. Candace B. Martin, Chairman, Ms. Katherine Kellman, Clerk, and Mr. Thomas G. Carbone, Director of Public Health. Dr. Donald H. Miller, Vice-Chairman, joined the Meeting at 6:05 p.m.

I. Approval of Minutes

- **December 12, 2011** – Approval of Minutes was postponed until the February 13, 2012 Board of Health Meeting
- **December 20, 2011**

Motion by Ms. Kellman, seconded by Dr. Miller, to approve the Minutes of the Board of Health Meeting of December 20, 2011. Unanimous approval.

II. Appointments & Hearings

- **6:00 p.m. – Charles Eliopoulos for My Brothers Place, Show Cause Hearing (Continued)** – Mr. Charles Eliopoulos was present. Ms. Martin stated that since July the last three inspections the Board received reported no critical violations. She thanked him for his continued efforts to improve. Mr. Carbone stated that he was pleased with the progress Mr. Eliopoulos and his family have made. The Board would not require that he continue with the Private Inspections unless he wished to do so.

Motion by Ms. Martin, seconded by Ms. Kellman to close the Hearing with no further action. Unanimous approval.

- **6:15 p.m. – Sun Son for Boston King Café, Show Cause Hearing (Continued)** – Mr. Son and one of his staff were present. Ms. Martin stated that within the last nine months, Mr. Son had to appear before the Board four times and on the last Private Inspector's report by Michelle Cramm, there were more critical violations. Also, when Ms. Crafts went into the restaurant for an inspection she noticed that the cook was not wearing gloves. Mr. Son explained that his staff was still learning and he knew there were cleaning issues as well as food storage issues, and that he was aware of the glove issue. Mr. Son's staff member explained that they have made some changes in their habits, such as putting the used rags into clean buckets, keeping the refrigerator clean, cleaning where the tables meet the floors, and changing the mop. They try to clean as they go instead of waiting until things are too dirty. They have updated the checklist to include more details. Mr. Son stated that he felt that Ms. Cramm was a big help and was reaching out to the other employees. Mr. Carbone stated that Mr. Son should ask Ms. Cramm to explain the

reasons for her suggestions so that staff can understand the reasoning behind the requirements.

Motion by Ms. Martin, seconded by Ms. Kellman to continue the Show Cause Hearing for three months, with the requirement that inspections by a Private Inspector be done monthly and be filed with the Health Division within 24 hours, and if there are any critical violations during that time, a meeting with the Board would be required at the next scheduled Board of Health Meeting. Unanimous approval.

- **6:30 p.m. – Attorney Andrew Caffrey for 49 & 51R School Street; Appeal of Orders**
- Attorney Caffrey was present to explain to the Board that he has had meetings with the Archdiocese and was hopeful that an agreement would be reached with the homeowners to contribute a portion of the cost of putting in a new water line. He has been in discussions with the Attorney for the Archdiocese, Francis O'Connor, who verified that talks are ongoing with the homeowners. Right now water is still being supplied by neighbors who have run hoses to the affected homes. They have been very lucky that the weather has been mild or the hoses would have frozen by now. After discussion, the Board decided that since progress is being made, more time would be allowed for an agreement to be reached.

Motion by Ms. Martin seconded by Dr. Miller to continue the Hearing until the next scheduled Board of Health Meeting on Monday, February 13, 2012. Unanimous approval.

- **6:45 p.m. – Susan Odle for 38 Michael Way – Appeal of Condemnation Order –**
Present was Attorney Carol McGravey representing Town Counsel, and the Attorney for the Condo Association, Chris Driscoll. In light of the notification that Ms. Odle was not present and has filed for Chapter 13 Bankruptcy Protection, the matter should be continued to the next regularly scheduled Board of Health Meeting on Monday, February 13, 2012.

Motion by Ms. Martin, seconded by Ms. Kellman, to continue the Hearing to the next regularly scheduled Board of Health Meeting on Monday, February 13, 2012. Vote taken, Ms. Martin, Aye, Dr. Miller, Aye, Ms. Kellman, Aye. Unanimous approval.

Dr. Miller inquired as to what continuing the meeting would accomplish since the ORDER is still be in place by the court. Ms. Martin stated that it is Mrs. Odle's right to appeal, and that she cannot occupy the premises at this time. Attorney McGravey replied that everything is Stayed because of the Bankruptcy Court proceeding except that which was allowed to proceed in accordance with Judge Cornetta's ORDER. Judge Cornetta's ORDER contained certain provisions that the parties have to comply with. That is all that can be done right now within the confines of the Bankruptcy Court action and the lifting of the Stay that allowed Judge Cornetta to make his ORDER. Ms. Martin commented that work was done on the Condo, but not to the satisfaction of the Health Division and Fire Department. Mr. Carbone confirmed that if Ms. Odle complies with all the issues cited by the various entities, then the Condemnation ORDER can be lifted and there would be no need for an Appeal. Ms. Odle had wanted to transport the Dumpster from her 38 Michael

Way condo to her Osgood St. property, but Mr. Carbone denied her request because anything that was in the dumpster was to be considered to be rubbish or refuse and Osgood Street was not a site that the dumpster could be transported to. Unfortunately, there has been other material transported to the Osgood Street site, and Mr. Carbone has talked to Town Counsel about that issue.

Attorney Driscoll explained that there was a Hearing at the court last week that she did not attend because she said she was sick. At that time he explained to Judge Cornetta that they conducted the walk-through with Mr. Carbone and Lt. Pomerleau the day before and their contractor removed the offending material. A second inspection was needed since the conditions during the first inspection were so bad that there was no access to the unit. They were then able to get into the unit and get a good look. They also had a structural engineer come in and take a look, and fortunately, there doesn't seem to be any significant structural damage. At this point, Judge Cornetta is writing an ORDER to deal with the several violations identified by Mr. Carbone, with the intention that she would be given a certain amount of time to remedy the violations on her own, and if not, the Condo Association could go in and do it themselves. Attorney Driscoll has not yet seen the ORDER.

- **7 p.m. – Mark Johnson for Andover Apartments at Rolling Green - Discussion of Watershed Protection Alternatives. *Inserts supplied by Mark B. Johnson included in a separate packet** – Present were Attorney Mark Johnson, Bob Dolage, Consultant, Dan Koravis from D.K. Engineering, Maureen Hanley from Norse Environmental Services, and Ray Cormier, Applicant. Attorney Johnson showed the Board a PowerPoint presentation laying out the proposed project for the Lowell Street Stormwater Treatment Facility.¹ Attorney Johnson stated that they have a proposal before the Zoning Board for an affordable housing project at the Rolling Green behind the Windsor Apartments and in back of the Boston Sports Club. In putting together this project they realized that there is an existing problem with untreated runoff from Lowell Street and from the IRS site that goes on to a portion of the property. They looked at this as a possibility of working with the town to come up with a solution to this issue. This proposal is independent from what is required for them to do as far as their affordable housing project, which will comply with all stormwater and DEP requirements. The proposal this evening was to try to make a bad situation that they have not created better. Although it is not required for them to do so, they are offering a remedy to the water issue. The water discharge comes from the IRS and the drainage system at Lowell Street from the Rte. 93 overpass to Lovejoy Drive and is untreated before it flows into Fish Brook. The treatment facility would collect the water runoff and treat it before it flows into Fish Brook. They will provide the land to the Town of Andover and design and build the facility. After completion, the Town of Andover would be responsible for all maintenance and upkeep of the facility.

This has been an existing condition for some time because of the wetlands in the area and has been subject to some regulatory action against the contractor working at the IRS. The issue is not that the property is wet; it is that there are pollutants coming from the

¹ A paper copy of the PowerPoint presentation has been inserted with the other information that was supplied by Mark B. Johnson in the separate packet.

roadways. There was a retention basin constructed years ago, and there is a weir there to control the runoff to try and slow it down. Their proposal is to enhance that area and direct the runoff to the first cell to let the suspended solids settle out, then the second cell would enhance the removal of the sediment by means of the wetland vegetation within the facility, then the third cell would add to that pollutant removal. Once it fills up, it would be tied to the culvert that already exists and there would be a weir that would be at the elevation of one inch ponding. If you have a rainfall causing it to overflow past that one inch volume, the overflow would just spill out into the existing wetlands.

Ms. Kellman asked what data was available on the concentration and types of pollutants that are in the water. There were some unofficial samples taken and sent off for analysis for nitrogen and phosphorus, and TSS. New England Testing Laboratory in Rhode Island did some testing, and the results were sent to Mr. Carbone. The Board questioned why they are willing to construct this facility if the housing project does not require them to do so. Attorney Johnson replied that they just felt it was something that would help the Town out, but if the Town did not want them to do this, they would just move on. If the Town wants to do this, and get all the needed permits, then they would fund the construction of it, but would not do maintenance or upkeep on it.

The idea that the Town has to maintain the structure and that this is being done completely independent of any requirements, makes the Board unsure of a decision at this time. After discussion, the Board decided that there are no objections to what they wanted to do, but would prefer to see the results of a Peer Review and water quality test results before making any decision to approve or disapprove of the project.

III. Discussion

- N/A

IV. Old Business

- N/A

V. Definitive Subdivision Plans

- N/A

VI. Plan Review

- N/A

VII. Staff Reports

A. Director's Reports:

- **Interns** – Mr. Carbone informed the Board that a new Intern was going to start working at the Health Division and will be in on Tuesdays and Fridays starting tomorrow. She will be researching letter grading of restaurants. The North Andover Board of Health is also interested in making this a regional project showing the pros and cons. The new Intern will address a workshop of Health Agents and may get some of the Board of Health Members together for discussions. Ms. Martin did some research and stated that she liked the idea of a four point violation system, where each violation takes off four points from 100.

Ms. Martin stated her idea for another Internship project would be to research the use of fluoride in drinking water. We could find out what other communities are doing as well – what control measures are in place, making sure we are within the limits, what our levels are compared to other treatment facilities.

- **ViewPermit Software Update (not on Agenda)** – Mr. Carbone updated the Board about how we are progressing with the new permitting system. Ms. Denise Paul, Administrative Assistant to the Health Division, worked with Marc Labbe, the Implementation Specialist Engineer, today. We are making some progress because some of the issues were fixed and he had a list of items to work on. Ms. Paul explained that a lot of the problems are date related. Unfortunately, the test system was not working as planned, so we have decided to use the live version and void the payments out after testing. The updates he put in the test system will be transferred to the live system. Mr. Labbe stated that he would update the system tonight or tomorrow. Ms. Paul will have a better idea of how things are going after a week or so after she tests more on the live system after the update. At this time, the Community Development and Planning Department is using two systems. The Building Department is totally live on ViewPermit, Zoning can do one type of permit on that system, and the rest of the office is still using the Permits Plus system. Now that the renewals for 2012 are completed, Ms. Paul will have more time to allot to testing the ViewPermit system. Mr. Carbone is not sure whether or not the Health Division will be able to go live in first week in February.
- **Letter to Credit Suisse First Boston CSFB Concerning Violations at 2 Dufton Road (not on Agenda)** – Ms. Martin stated that she was glad to see that the safety issues were followed up with an ORDER sent out on December 28, 2011. The roof of the property is in decay and the temporary structures are collapsing. The letter was sent to the bank because they are listed as the property owner. The bank may be able to use the court to get the property cleaned up.
- **Important Dates:**
 - February 13, 2012 @ 6 p.m. – Board of Health Meeting
 - February 23, 2012 @ 8 a.m. – MHOA/DEP Seminar in Wilmington
 - March 12, 2012 @ 6 p.m. – Board of Health Meeting
 - April 9, 2012 @ 5 p.m. – Board of Health Meeting

B. Nurses' Reports for December, 2011 – The Nurses' Reports for December, 2011, were for informational purposes only.

C. Inspectors' Reports for December, 2011 – The Inspectors' Reports for December, 2011 were for informational purposes only.

VIII. Board Member Reports

- N/A

IX. Adjournment

Motion by Ms. Martin, seconded by Ms. Kellman, to adjourn at 7:32 p.m. Unanimous approval.